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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/333,181

Applicant(s)

DEAN ET AL

Examiner

Zandra V. Smith

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 6) ☐ Other

## DETAILED ACTION

### *Claim Objections*

Claim 15 is objected to because of the following informalities: "second" is missing from line 3. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10-14 and 32-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A single claim which incorporates both an apparatus and method steps of using the apparatus is considered indefinite, since the resulting claim is directed to neither a process nor a machine. Note the explanation given in *Ex parte Lyell*, 17 USPQ2d 1548(Bd. Pat. App. & inter. 1990). In the present instance, claims 10 and 36 recite "the control structure comprises the method steps of . . ." Claims 11-14 and 33-36 are included for their dependence on claims 10 and 36. Please note that since claims 10-14 and 33-36 do not add any additional structure to the apparatus, the claims will not be further treated on the merits.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2877

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States

Claims 1, 4, 23, 26, and 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by *Conklin et al. (3,358,148)*.

As to **claims 1 and 23**, Conklin discloses a haze measuring apparatus with solid block cavity, comprising:

a housing having an inner flow portion and which is removably disposable between adjacent portions of pipeline to permit fuel flow from a fuel source through the inner flow portion (fig. 1, col. 2, lines 55-56, and col. 5, lines 47-52);

a light source within the housing (col. 2, line 54);

first and second photo-detectors adjacent one another in the housing, the first photo-detector detecting substantially full strength light and the second photo-detector detecting a baseline (col. 2, lines 57-65); and

circuitry coupled to the first and second photo-detectors to monitor the ratio of measured light intensities (col. 2, line 65-col. 3, line 8).

As to **claims 4 and 26**, Conklin discloses everything claimed, as applied above, in addition contaminants will cause light the scatter and the light intensity measured by the second photo-detector will increase above a base line (col. 4, lines 23-32).

As to **claim 37**, Conklin discloses a haze measuring apparatus with solid block cavity, comprising:

a housing having an inner flow portion (fig. 1, col. 2, lines 55-56, and col. 5, lines 47-52);

a light source within the housing (col. 2, line 54);

Art Unit: 2877

first and second photo-detectors adjacent one another in the housing, the first photo-detector detecting substantially full strength light and the second photo-detector detecting a baseline (col. 2, lines 57-65); and

circuitry coupled to the first and second photo-detectors to monitor the ratio of measured light intensities (col. 2, line 65-col. 3, line 8).

As to **claim 38**, Conklin discloses a haze measuring apparatus with solid block cavity, comprising:

a light source within the housing (col. 2, line 54);

first and second photo-detectors adjacent one another in the housing, the first photo-detector detecting substantially full strength light and the second photo-detector detecting a baseline (col. 2, lines 57-65); and

circuitry coupled to the first and second photo-detectors to monitor the ratio of measured light intensities (col. 2, line 65-col. 3, line 8).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2- 3 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over

***Conklin et al. (3,358,148).***

Art Unit: 2877

As to **claims 2-3 and 24-25**, Conklin discloses everything claimed, as applied above, with the exception of the preferred sample. The preferred sample of Conklin is clear oil (col. 3, line 37), however the system is designed for use with a plurality of liquids and gases (col. 1, lines 20-22), the color of which will not interfere with the measurement (col. 5, lines 36-41). The apparatus is designed to be used with flowing liquids or gases, of which natural gas, propane, hexane, heptone, gas delivered from coal, and methane are examples. Since it has been held to be within the general skill of a worker in the art to select a known material in the basis of its suitability for the intended use, it would have been obvious to one having ordinary skill in the art at the time of invention to use the apparatus with natural gas, propane, hexane, heptone, gas delivered from coal, and methane.

Claims 5-9 and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Conklin et al. (3,358,148)* in view of *Infante (5,742,064)*, cited by applicant.

Regarding **claims 5-8 and 27-30**, Conklin discloses everything claimed, as applied above, with the exception of inputting a control structure into the circuitry, however to do so is well known as taught by Infante. Infante discloses a system for detecting impurities contained in flowing petroleum products that includes a computer workstation (fig. 1, item 30) programmed to analyze, correlate, and collate data received from the sensors (col. 4, lines 30-34). It would have been obvious to one having ordinary skill in the art at the time of invention to include a control structure in a computer to automate the system thereby increasing system production and decreasing measurement time. Please note that since the computer is programmed the programming must be stored in the memory using algorithms and a computer reads on an application specific integrated circuit.

Art Unit: 2877

As to **claims 9 and 31**, the system of Conklin and Infante discloses everything claimed, as applied above, with the exception of the program language, however it would have been obvious to one having ordinary skill in the art at the time of invention to use one of the claimed languages since the examiner takes Official Notice to the fact that they are well known in the art and that the selection of a known material on the basis of its suitability for the intended use has been proved to be within the level of ordinary skill of a worker in the art.

Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Conklin et al. (3,358,148)* in view of *Tanaka et al. (4,270,049)*.

As to **claim 15**, Conklin discloses a haze measuring apparatus with solid block cavity, comprising:

a housing having an inner flow portion and which is removably disposable between adjacent portion of pipeline to permit fuel flow from a fuel source through the inner flow portion (fig. 1, col. 2, lines 55-56, and col. 5, lines 47-52);

a light source within the housing (col. 2, line 54);

first and second photo-detectors adjacent one another in the housing (col. 2, lines 57-65);

and

circuitry coupled to the first and second photo-detectors to monitor the ratio of measured light intensities (col. 2, line 65-col. 3, line 8).

Conklin differs from the claimed invention in that a remote unit, central station, and communications link are not provided, however to do so is well known as taught by Tanaka. Tanaka discloses a liquid leakage detection system which includes a remote unit, a central station and a communications link (col. 5, lines 30-45). It would have been obvious to one having

Art Unit: 2877

ordinary skill in the art at the time of invention to include a remote unit, central station and communications link to provide real time coverage of any contaminants in the pipeline.

As to **claim 16**, the system of Conklin and Tanaka discloses everything claimed, as applied above, in addition the signal represent light intensities measured by the first and second photo-detectors (col. 2, line 65-col. 3, line 8, Conklin).

Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Conklin et al.* (3,358,148) and *Tanaka et al.* (4,270,049), and further in view of *Lamensdorf* (5,568,121).

As to **claims 17-18, and 20-21**, the system of Conklin and Tanaka discloses everything claimed, as applied above, with the exception of a central interface in the remote system, however the provision of a central interface in a remote wireless communications system is well known as taught by Lamensdorf. Lamensdorf discloses a wireless system for sensing information at remote locations, the information being sent using a radio signal through an antenna (col. 3, lines 50-68). It would have been obvious to one having ordinary skill in the art at the time of invention to include a central interface in a remote wireless communications system to provide a means for transmission of the signals.

As to **claim 19**, the system of Conklin and Tanaka discloses everything claimed, as applied above, with the exception of a satellite as the communications link, however the examiner takes Official Notice to the fact that it would have been obvious to one having ordinary skill in the art at the time of invention to use a satellite as the communications link since the use of a satellite allows for remote location of sensing systems beyond the range of tradition wireless communications systems.



Art Unit 2877

As to **claim 22**, the system of Conklin and Tanaka discloses everything claimed, as applied above, with the exception of a user interface device, however the examiner takes Official Notice to the fact that it would have been obvious to one having ordinary skill in the art at the time of invention to include a user interface device to provide control of the system on site.

***Fax/Telephone Numbers***

If the applicant wishes to send a Fax dealing with either a proposed amendment or for discussion for a phone interview, then the Fax should:

1) Contain either a statement "DRAFT" or "PROPOSED AMENDMENT" on the Fax cover sheet; and

2) Should be unsigned by the attorney or agent.

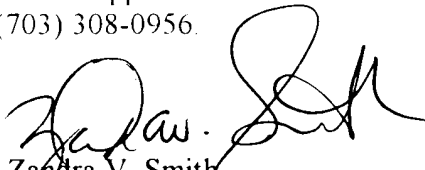
This will ensure that it will not be entered into the case and will be forwarded to the examiner as quickly as possible.

***Papers related to the application may be submitted to Group 2800 by Fax transmission. Papers should be faxed to Group 2800 via the PTO Fax machine located in Crystal Plaza 4. The form of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CP4 Fax Machine number is:***

**(703) 308-7722**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Examiner* Zandra V. Smith whose telephone number is (703) 305-7776, and who is available Monday - Friday 6:30 a.m. - 4:00 p.m..

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0956.

  
Zandra V. Smith  
Patent Examiner  
Art Unit 2877